

**REMARKS**

This Amendment is submitted in full response to the Office Action dated July 27, 2005, wherein all claims were rejected. In particular, claims 20-22 and 26-41 were rejected under the judicially created doctrine of obviousness type double patenting in view of certain claims in U.S. Pat. No. 6,386,214 and U.S. Pat. No. 6,889,699; claims 14-15 and 17-18 were also rejected under the judicially created doctrine of obviousness type double patenting in view of certain claims in U.S. Pat. No. 6,889,699 and 6,314,976; claim 14 stands rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,020,557 to Apple; claims 20, 26-32 and 40-41 also stand rejected under 35 U.S.C. 102(b) as being anticipated by European Patent No. 628,264; and wherein claims 14, 20, 26-29, 31-31 and 40-41 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,836,328 to Lee. In addition to the foregoing, the drawings stand objected to under 37 CFR 1.83(a) and 1.84(h)(4) as the allegedly not showing the capability of the main and secondary hub members to rotate about the longitudinal axis of the pole member.

It is respectfully asked that reconsideration be given to this patent application in light of both the above amendments and the following arguments.

**I. Rejections Based on Obviousness-Type Double Patenting.**

The Applicant has submitted herewith a Terminal Disclaimer and as such, the rejection of claims 14-15 and 17-18 based on the doctrine of obviousness type double patenting relative to U.S. Pat. Nos. 6,889,699 and 6,314,976 are believed to have been overcome. Similarly, the rejection of claims 20-22 and 26-41 based on the same doctrine relative to U.S. Pat. Nos. 6,386,214 and 6,889,699, is believed to have been overcome.

**II. Rejections Under Section 102 Based on Cited Prior Art.**

**A. Claim 14 and U.S. Patent No. 5,020,557 to Apple or U.S. Patent No. 5,836,328 to Lee.**

As noted above, claim 14 stands rejected under 35 U.S.C. Section 102(b) as being anticipated by Apple (U.S. Pat. No. 5,020,557) or in the alternative, under Section 102 (e) by Lee (U.S. Pat. No. 5,836,328). Applicant presents herein amended claim 14 which now recites, among other features, a cam cleat member for maintaining the main hub member in a position along the pole member. Although the Applicant's invention differs in other important ways from those taught in both the Apple and Lee patents, it is abundantly clear that neither Apple nor Lee teach any use of a cam cleat member.

It is recognized that the Office Action indicated at page 8 that one element shown in Lee, namely, reference number 90 in Figure 4, could be viewed as a cam cleat member. However, a careful reading of the Lee patent demonstrates otherwise. In particular, element 90 is stated in the Lee patent to be a "spool," which is associated with a drive shaft and a crank member 902 (Col. 2, lines 56-end). There is no teaching or inference whatsoever about this being a cam cleat member, let alone one structured to maintain the main hub member in a position along the pole member. In fact, Figure 2 of the Lee patent provides the only indication of how the "runner 40" may be stopped in a position on the upright pole 20, as it shows what appears to be a pin member inserted into a hole formed in the pole itself, which is commonly known in the prior art, including as taught in the Apple patent.

As the other ground recited in the Office Action for rejecting this claim 14 has been addressed with a Terminal Disclaimer, it is respectfully urged that favorable reconsideration should now be given to claim 14, as amended.

**B. Claim 17.**

With regard to claim 17, which stands rejected in the Office Action based solely on the judicially created doctrine of

obviousness type double patenting, it is submitted that this claim may now be allowed in light of the Terminal Disclaimer presented herewith.

**C. Independent Claims 20 & 26 and Rejections Based on European Patent No. 628,264 or U.S. Patent No. 5,836,328 to Lee.**

As noted above, independent claims 20 and 26 stand rejected under 35 U.S.C. Section 102(b) as being anticipated by European Pat. No. 628,264 to Revelut, or in the alternative under 35 U.S.C. Section 102(e) based on the Lee patent (U.S. Pat. No. 5,836,328).

With regard to the cited European patent, No. 628,264 to Revelut, the Applicant would first dispute the U.S. Patent Office's conclusion that it teaches the use of either a "cam cleat member" or a "cam cleat" on an umbrella assembly, recited in claims 20 and 26 respectively, let alone one having the structure of and intended use within Applicant's invention. Specifically, Applicant believes there is an inherently insufficient teaching in this European patent reference for it to be appropriately relied upon in rejecting Applicant's original independent claim 20, as well as original independent claim 26. Without waiving such arguments, however, this point is for the moment rendered moot as Applicant has amended both claims 20 and 26 to more clearly distinguish the invention from

both the European patent and the Lee patent, albeit solely for the purposes of facilitating allowance of this application.

With regard to claim 20, Applicant points out this has now been amended to reflect that the invention includes, among other things, a single line member secured to a bracket member and cooperatively engaging at least one pulley and a cam cleat member. This recitation clearly distinguishes over the European patent which not only fails to teach a bracket member, as well as an upper or secondary hub, but also which, as shown in Figure 1 thereof, teaches a complex system incorporating a plurality of lines that extend between upper element 4 and lower element 4. Similarly, claim 26 has been amended to recite, among other features, a pulley system and a single line member movably connected thereto, which regulate movement of the canopy support assembly between open and closed positions, and further, with the cam cleat cooperatively disposed and structured with the line member to maintain the hub assembly in a predetermined position. Consequently, claims 20 and 26, as amended are believed to clearly distinguish over the cited European patent.

With regard to the Lee patent, it is again pointed out that claim 20 calls for, among other features, a cam cleat member for maintaining the main hub member in a position along the pole member, and similarly, that claim 26 calls for a cam cleat. As stated above with regard to claim 14, while there are

other important differences between Applicant's invention and that taught in the Lee patent, Lee clearly does not teach or suggest any use of a cam cleat member, but on the contrary, only use of a "spool 90" associated with a drive shaft 902 and a crank member 901.

In addition to the foregoing, Applicant points out that neither the cited European patent nor the Lee patent make any reference to nor teach structure for allowing the hub member to rotate about the pole, a feature which is also recited in claim 20. Without waiving any arguments on this point, Applicant has nevertheless amended claim 20, as noted above, to more clearly distinguish the invention from both of these references so as to facilitate allowance of this claim. A few minor amendments have also been made to this claim for clarification purposes. Consequently, and as the only other ground for the rejection of this claim is believed to have been overcome with the Terminal Disclaimer presented herewith, it is urged that this claim, as well as dependent claims 21-22, are in condition for allowance, which action is requested.

For similar reasons, it is also urged that claim 26 is now in condition for allowance, as are claims 27-41 which depend therefrom.

**III. Objection to the Drawings under 37 CFR 1.83(a) and 1.84(h)(4)**

As noted above, the drawings stand objected to under 37 CFR 1.83(a) and 1.84(h)(4) as they allegedly do not show the capability of the main and secondary hub members to rotate about the longitudinal axis of the pole member. It is respectfully pointed out that the present application is a continuing patent application based on the applications which matured into U.S. Patent Nos. 6,314,976 and 6,386,214, each of which has several drawings similar to those of the present case, which were deemed to be acceptable on the issue of ability to rotate about the pole member. However, Applicant presents new Figure 17 herewith, and has amended the specification accordingly, and further, notes that this Figure previously appeared in U.S. 6,889,699 as Figure 17. Aside from the fact that the specification of this application itself supports this Figure, such as at page 21, lines 3-13 of the undersigned's file copy, with adequate support appearing elsewhere, the present application also claims priority to the application which matured into the aforesaid U.S. Pat. No. 6,889,699, and incorporated it, and the other, related patents, by reference.

#### **IV. Supplemental Information Disclosure Statement (IDS).**

As the Examiner has already recognized, this patent application claims priority to a plurality of prior-filed, U.S. patent applications, three of which have matured into U.S. patents. In an abundance of caution, Applicant submits herewith a supplemental Information Disclosure Statement, along with the pertinent filing fee, in order to ensure that all of the various references cited in those "parent" applications and/or in a corresponding application are part of the record for this application. It is believed that the items listed on the enclosed supplemental IDS are all cumulative, and should not alter the reasoning or conclusions set forth herein.

#### **V. Conclusion.**

For the reasons set forth above, the Applicant submits that the present application is now in condition for immediate allowance, which action is respectfully requested.

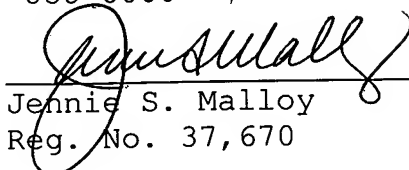
In the event that any fee may be required by the filing of this paper, an Authorization to Charge Fees to Deposit Account, **Deposit Account No. 13-1227**, is being filed concurrently with this Amendment.



Respectfully submitted,

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